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7 Attorneys for Plaintiff and Counter-Defendants

8 DELPHON INDUSTRIES, LLC dba GEL-PAK, JEANNE BEACHAM,

9 DARBY DAVIS AND SANCHO ADAM

10 UNITED STATES DISTRICT COURT

11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 SAN JOSE DIVISION

13 DELPHON INDUSTRIES, LLC dba GEL-PAK, a
Delaware limited liability company,

14 Plaintiff,

15 v.

16 INTERNATIONAL TEST SOLUTIONS, INC., a
17 Nevada corporation; INTERNATIONAL TEST
18 SOLUTIONS, INC., a California corporation;
19 JOYCE FREEZE, an individual; and ALAN E.
HUMPHREY, an individual,

20 Defendants.

Case No. CV-11-01338 PSG

**STIPULATION AND ORDER
REGARDING AMENDMENT TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Judge: Hon. Paul S. Grewal,
United States Magistrate Judge

21 AND RELATED CROSS-ACTION

22 WHEREAS, Plaintiff's First Amended Complaint currently contains a claim for Unfair
23 Competition and a request for damages pursuant to said claim;

24 WHEREAS, pursuant to this Court's order dated September 2, 2011, Plaintiff was granted
25 leave to substitute the remedy referenced in its prayer for relief with respect to its claim for Unfair
26 Competition;

1 WHEREAS, Plaintiff proposes and Defendants have agreed to replace the current request for
2 damages in Paragraph B of the Prayer For Relief in the First Amended Complaint with a request for
3 restitution;

4 THEREFORE, the parties stipulate and agree that, without prejudice to or waiver of any of
5 their respective claims, defenses, or positions that Paragraph B of the Prayer For Relief in the First
6 Amended Complaint shall now read as follows:

7 "B. For compensatory damages of at least \$500,000 according to proof, based on
8 Plaintiff's First through Third Claims and for restitution according to proof based on
9 Plaintiff's Fourth Claim;".

10 Dated: September 13, 2011

NIXON PEABODY LLP

11
12 By /s/ LISA A. COLE
13 GREGORY P. O'HARA
14 LISA A. COLE
15 TALLEY M. HENRY
16 Attorneys for Plaintiff and Counter-Defendants
17 DELPHON INDUSTRIES, LLC dba GEL-PAK,
18 JEANNE BEACHAM, DARBY DAVIS AND
19 SANCHO ADAM


20 Dated: September 13, 2011

KERR IP GROUP, LLC

21 By /s/ MARIE MARTIN KERR
22 MARIE MARTIN KERR
23 Attorneys for Defendant
24 INTERNATIONAL TEST SOLUTIONS, INC.

25 PURSUANT TO STIPULATION, IT IS SO ORDERED:

26 DATE: September 14, 2011

27 
28 PAUL S. GREWAL,
United States Magistrate Judge

GENERAL ORDER 45 CERTIFICATION

I, Lisa A. Cole, hereby attest pursuant to N.D. Cal. General Order No. 45 that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: September 13, 2011

NIXON PEABODY LLP

By /s/ LISA A. COLE
GREGORY P. O'HARA
LISA A. COLE
TALLEY M. HENRY
Attorneys for Plaintiff and Counter-Defendants
DELPHON INDUSTRIES, LLC dba GEL-PAK,
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